

Posted; March 14, 2000
12:30 p.m.

Order 2000-3-6

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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 14th day of March, 2000

-----Served: March 16, 2000
Agreements adopted by the Tariff :
Coordinating Conferences of the :
International Air Transport Association : Docket OST-2000-6893-2
relating to passenger fare matters :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code), and Part 303 of the Department's regulations. The agreement was by mail vote for effectiveness on March 1, 2000.^{1/}

The agreement adopts new Resolution 005aa which stipulates that when putting an agreement into effect that establishes fares involving U.S. points, IATA member carriers cannot implement direct-service normal economy fares that exceed the Standard Foreign Fare Level (SFFL) set by the Department. This resolution, like Permanent Effectiveness Resolution 001, will be of indefinite duration and will apply to every fares agreement affecting the United States and its territories. In addition, IATA will remind its members of the terms of Resolution 005aa in memoranda circulated when agreements involving U.S. points are declared effective.

We have decided to approve the agreement. Based on our review of the information submitted and other relevant material, we conclude that the approved agreement, as conditioned, will not result in fares or charges that are unlawful or injurious to competition in the markets at issue. Once effective, Resolution 005aa will permit the Department to extend its expedited approval process, used for non-controversial agreements involving non-U.S. points since early 1996, to routine agreements involving U.S. points, where the only material issue is carrier adherence to the Department's SFFL criteria. However, we will continue to issue formal, written orders on any IATA agreements that in our opinion raise substantive issues.

Acting under Title 49 of the United States Code (the Code),

^{1/} IATA memorandum PTC COMP 0578 (Mail Vote 062), filed with the Department on February 9, 2000.

and particularly sections 40101, 40103, 41300 and 41309:

1. We do not find the following resolution, which is incorporated in the agreement in Docket OST-2000-6893 as indicated and which has direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code:

IATA			
<u>Docket</u>	<u>No</u>	<u>Title</u>	<u>Application</u>
OST-2000-6893	005aa	Special Implementation Provisions, Standard Foreign Fare Level (SFFL), USA/US Territories	1;3;1/2;2/3; 3/1;1/2/3

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under Title 49 of the United States Code.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-2000-6893 as set forth in finding paragraph 1 above.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-2000-6893, as set forth in finding paragraph one above.

By:

A. BRADLEY MIMS
Deputy Assistant Secretary for Aviation
and International Affairs

(Seal)